



State of Utah

Department of Natural Resources

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas & Mining

JOHN R. BAZA
Division Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

November 3, 2005

CERTIFIED RETURN RECEIPT
7002 0510 0003 8603 2762

Gary Mullard
Northern Stone Supply
203 West Main
Oakley, Idaho 83346

Subject: Final Assessment of Penalty for State Cessation Order No. MC-05-01-06,
Limelight Green Quarry (S/003/012), Box Elder County, Utah

Dear Mr. Mullard:

On September 19, 2005, the Division sent you the proposed reassessment, via Certified Mail, associated with the above-mentioned Cessation Order. Under rules R647-7-106 & R646-7-107 you are allowed 30 days from the receipt of the proposed assessment to request a conference or hearing to review the fact of the violation or assessment. Our records indicate that you received the reassessment on September 22, 2005.

If you wanted to appeal the fact of the Cessation Order or request a review of the proposed penalty assessment, that conference or hearing should have been requested on or before October 22, 2005. No request for a conference was made; therefore, under R647-7-108 the opportunity to appeal is past and the assessment is now considered final. I have taken into account the information you provided in your letter dated October 16, 2005 and have adjusted the final assessment downward based on that information. A copy of the final assessment worksheet is enclosed for your records.

The penalty in the amount of \$330 is now due and payable. Please remit payment to the Division, mail c/o Vickie Southwick. Failure to provide the required payment within 30 days may result in civil action in the appropriate district court.

Thank you for resolving this situation. Please call me at (801) 538-5325 if you have any questions.

Sincerely,

Daron R. Haddock
Assessment Officer

DRH:jb

Enclosure: Worksheets

cc: Vicki Bailey, Accounting
Vickie Southwick, Exec Sec

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WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program

COMPANY / MINE Gary Mullard/ Limelight Green Quarry PERMIT S/003/012
NOV / CO # MC-05-01-06(1) VIOLATION 1 of 1

ASSESSMENT DATE November 3, 2005

ASSESSMENT OFFICER Daron R. Haddock

I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)

- A. Are there previous violations, which are not pending or vacated, which fall within three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>none</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>

TOTAL HISTORY POINTS 0

II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event
(assign points according to A or B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?
Conducting Activities without appropriate approvals.
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

*** *Before enlarging a small mining operation beyond five acres, the operator must file a Notice of Intention to Commence Large Mining Operations and receive Division approval. A few acres have been disturbed at this location without revising the Notice of Intent to do so. While the Operator has a Notice of Intent for a small mine, which allowed disturbance up to 5 acres, the operation has expanded to approximately 8 acres. Approximately 3 acres have been disturbed that were not approved for disturbance. Disturbance has actually occurred.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 5

PROVIDE AN EXPLANATION OF POINTS:

*** *The inspector stated that the operator has disturbed approximately 3 acres of land that had not been approved for disturbance. The damage was the loss of resources and soil on the area disturbed (Operator claims very little loss of resource or soil as a result of this activity). Further discussion with the inspector revealed that the damage is probably temporary. While much of the soil and vegetation have been disturbed, the site could still be reclaimed. Damage is minimal and it probably does not leave the site. Damage is assessed in the lower 1/3 of the range.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement?
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 25

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 5

PROVIDE AN EXPLANATION OF POINTS:

*** *The inspector indicated that the operator was notified by certified letter dated April 19, 2000 that he had expanded beyond 5 acres and needed to obtain a large mine permit or reclaim to below 5 acres. The operator did not keep close track of the disturbance that he was creating. He had reclaimed some, but did not realize that he had exceeded the 5 acre area. This indicates lack of diligence or lack of reasonable care. An operator should understand the need to keep track of the area being mined and obtain approval prior to expanding his mining operations. No contact was made to the Division, to verify the need for a large mine permit. The Operator was somewhat negligent in this regard, thus the assignment of points in the lower part of the negligence range.*

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?
IF SO--EASY ABATEMENT

Easy Abatement Situation

X	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
X	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	0
	(Operator complied within the abatement period required)	

(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)

*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

X	Rapid Compliance	-11 to -20*
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	-1 to -10*
	(Operator complied within the abatement period required)	
X	Extended Compliance	0
	(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)	
	(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)	

EASY OR DIFFICULT ABATEMENT? Difficult abatement

ASSIGN GOOD FAITH POINTS -15

PROVIDE AN EXPLANATION OF POINTS:

*** *Since plans and map were required for abating this violation the abatement is considered to be difficult. The operator has showed diligence in completing the abatement. Plans for reducing the disturbed area to less than 5 acres along with a map were required to be submitted by July 1, 2005. Plans were actually received June 27, 2005, which was ahead of the deadline. Regrading work was required to be completed by July 31, 2005 and the Division was notified that it had been completed by July 25, 2005 again well ahead of the deadline. Overall the Operator did comply rapidly and receives good faith points in the middle part of the rapid compliance range.*

V. ASSESSMENT SUMMARY (R647-7-103.3)

NOTICE OF VIOLATION # <u>MC-05-01-06(1)</u>	
I.	TOTAL HISTORY POINTS <u>0</u>
II.	TOTAL SERIOUSNESS POINTS <u>25</u>
III.	TOTAL NEGLIGENCE POINTS <u>5</u>
IV.	TOTAL GOOD FAITH POINTS <u>-15</u>
	TOTAL ASSESSED POINTS <u>15</u>
	TOTAL ASSESSED FINE <u>\$330</u>